

IN THE DRAWINGS

Applicant submits a substitute Sheet No. 1/4 and 3/4 containing Figures 1 and 3 and reflecting corrections made to Figures 1 and 3.

Figures 1 and 3 were objected to by the draftsperson for having poor line quality. Figures 1 and 3 have been corrected to comply with this requirement.

## REMARKS

Applicant thanks examiner for indicating allowable subject matter in original claim 7. Claim 7 has been incorporated into claims 1 and 9 to place the application in condition for allowance.

### 35 U.S.C. § 102 Rejections

The Examiner has rejected claims 1-6 and 8-12 under 35 U.S.C. § 102(b) as being anticipated by "Automatic Segmentation of 3D-MRI Data Using a Genetic Algorithm", Moller et al.

The subject matter of original claim 7 has been incorporated into claims 1 and 9. Moller et al. does not suggest the elements of now amended claims 1 and 9 because of the incorporated allowable subject matter of claim 7.

Applicant, accordingly, respectfully requests withdrawal of the rejections of claims 1-6 and 8-12 under 35 U.S.C. § 102(b) as being anticipated by "Automatic Segmentation of 3D-MRI Data Using a Genetic Algorithm", Moller et al.

### Claim Objections

Claim 7 was objected to by the examiner for failing to define the parameters of the inequalities  $p_1(i)$ ,  $p_2(i)$ ,  $p_k(i)$  and  $\Delta_1$ ,  $\Delta_2$ ,  $\Delta_k$ . However, as amended, claims 1 and 9 define  $p_1(i)$ ,  $p_2(i)$ ,  $p_k(i)$  and  $\Delta_1$ ,  $\Delta_2$ ,  $\Delta_k$  as supported in the specification on page 6, lines 2-23, and page 9, lines 5-15.

Therefore, the objection to the parameters of the inequalities, as incorporated into claims 1 and 9, is overcome.

### 35 U.S.C. § 101 Rejections

The Examiner has rejected claims 1-12 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. More specifically, the examiner cites the "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" which states in Section II(A):

*"The claimed invention as a whole must be useful and accomplish a practical application. That is, it must produce a "useful, concrete and tangible result." State Street, 149 F.3d at 1373-74, 47 USPQ2d at 1601-02. The purpose of this requirement is to limit patent protection to inventions that possess a certain level of "real world" value, as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research .... The applicant is in the best position to explain why an invention is believed useful. Accordingly, a complete disclosure should contain some indication of the practical application for the claimed invention, i.e., why the applicant believes the claimed invention is useful. Such a statement will usually explain the purpose of the invention or how the invention may be used." (Emphasis Added).*

The claims of this application recite a complete and useful result, namely the determination of an estimate for the K parameters. As disclosed in the specification, particularly at page 2, the estimate can be used to differentiate inliers from the outliers and applied in "real world" areas such as medical imaging, digital signal processing, and psychology.

Therefore, there is no question that the claimed invention produces a "useful, concrete, and tangible result" and it is not simply an "abstract" idea under *Diamond v. Diehr*, 450 U.S. 175, 188-89, 209 USPQ 1, 9 (1981) and *State Street*

*Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d at 1373-74, 47 USPQ2d at 1601-02.

The invention is directed to a method and apparatus that has clear and articulated utility such as in the fields of medical imaging, digital signal processing, and psychology.

Furthermore, Applicant has amended claims 1 and 9 to further define the "useful, concrete, and tangible result" of the invention by including the steps of identifying the inlier data points based on the identified outlier data points and generating an estimate for the K parameters based only on the inlier data points (See page 7, lines 10-17 of the Specification).

Applicant, accordingly, respectfully requests withdrawal of the rejections of claims 1-6, and 8-12 under 35 U.S.C. § 101 as being drawn to non-statutory subject matter in view of the above arguments and claim amendments.

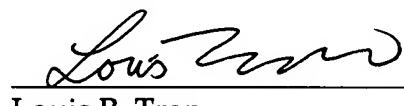
Applicant respectfully submits that the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call Louis Tran at (408) 720-8300.

Please charge any shortages and credit any overages to Deposit Account No. 02-2666. Any necessary extension of time for response not already requested is hereby requested. Please charge any corresponding fee to Deposit Account No. 02-2666.

Respectfully submitted,

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